In the Supreme Court of the United States

OCTOBER TERM, 1937

No. 636

ELECTRIC BOND AND SHARE COMPANY ET AL.,
PETITIONERS

v.

SECURITIES AND EXCHANGE COMMISSION ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MOTION BY RESPONDENTS TO ADVANCE

The Solicitor General, on behalf of respondents (the Securities and Exchange Commission and individual officers of the United States), moves to advance this cause for a hearing on or as near February 7, 1938, as may be agreeable to the Court.

This case involves the constitutionality of certain provisions of the Public Utility Holding Company Act of 1935 (c. 687, 49 Stat. 803) as applied to certain of the petitioners. The contentions of the Government regarding the importance of the constitutional issues involved and the urgency of an early determination of those issues by this Court have heretofore been outlined in a statement in support of petitioners' request for certiorari filed

before the case had been determined on appeal by the Court of Appeals for the Second Circuit (*Electric Bond and Share Co.* v. *Securities and Exchange Commission,* No. 995, October Term 1936, *cert. den.,* June 1, 1937).

Since the institution of proceedings in November 1935, in the District Court for the Southern District of New York, this case has been diligently prosecuted as a test suit by the Government. To avoid a needless and costly multiplicity of injunction suits and to prevent the delay which such suits would have caused in obtaining a final decision from this Court, the Commission has postponed enforcement of the registration provisions of the Act until the final disposition of this case. Although a few companies have chosen voluntarily to register, the great majority of important public-utility holding companies, notwithstanding the decisions of both the District Court and the Circuit Court of Appeals below, have refrained from registering. A final decision by this Court is, therefore, necessary before a start can be made in the administration of this important Act of the Congress.

In these circumstances, it is a matter of urgent public interest that this Court grant the motion to advance. Notice of the motion has been given to opposing counsel.

Respectfully submitted.

STANLEY REED,
Solicitor General.

JANUARY 1938.

U. S. GOVERNMENT PRINTING OFFICE: 1937